

DETAILED ACTION

Receipt is acknowledged of applicant's Amendment/Remarks filed 11/5/2009. Claims 1-14, 24 and 33-34 were previously cancelled. Claims 15-23, 25-32, and 35-36 are pending and are currently under consideration.

WITHDRAWN REJECTIONS

1. In view of Applicant's remarks, the objection to the abstract of the disclosure is herein withdrawn.
2. In view of the Examiner's amendment presented *infra* cancelling claims 15-23 and 25-31, the rejection of claims 15-23 and 25-31 under 35 U.S.C. 103(a) as being unpatentable over Asche et al. (US 4,917,886) is herein withdrawn.
3. Upon further consideration, the rejection of claims 32 and 35-36 under 35 U.S.C. 103(a) as being unpatentable over Asche et al. (US 4,917,886) in view of Levine et al. (US 6,126,959) and Betlach, II (US 5,374,661) is herein withdrawn.

EXAMINER'S AMENDMENT

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Diane Furman on 1/15/2010.

The application has been amended as follows:

Please cancel claims 15-23 and 25-31 without prejudice. Applicants reserve the right to pursue cancelled claims in a continuing application.

Reasons for Allowance

5. The following is an examiner's statement of reasons for allowance: Claims 32 and 35-36 are directed to specific pharmaceutical formulations in the form of an emulsion-gel for topical use containing 0.1% (w/w) diclofenac sodium salt. The closest prior art is due to Asche et al. (US 4,917,886). The claims are allowable over the closest prior art because, Asche et al. do not teach or disclose the specific formulations as claimed. Further, there is no motivation to select the particular combination of components at the specific concentrations as claimed, placing the claims in condition for allowance.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Claims 32 and 35-36 are allowed.

Correspondence

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jody L. Karol whose telephone number is (571)270-3283. The examiner can normally be reached on 8:30 am - 5:00 pm Mon-Fri EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Jody L. Karol/

Examiner, Art Unit 1627

Application/Control Number: 10/524,735
Art Unit: 1627

Page 5

/Yong S. Chong/
Primary Examiner, Art Unit 1627